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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,055	10/22/2003	Craig D. Friedman	501438.20501	7247

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EXAMINER

HAGOPIAN, CASEY SHEA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,055

Applicant(s)

FRIEDMAN ET AL.

Examiner

Casey Hagopian

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 13-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of applicant's Response to Restriction Requirement filed 10/26/2005.

Election/Restrictions

2. Applicant's election with traverse of Group II (claims 2-12) in the reply filed on 10/26/2005 is acknowledged. The traversal is on the ground(s) that the differences between the groups are not so great that all the claims, or at least most of the claims, cannot be examined together and that some of the groups share the same class and subclass. This is not found persuasive because the application includes separate and distinct multiple implants, methods of using, and systems. While some overlapping may occur between two groups such as the implants of groups I and II, a search required for the invention of group I will not necessarily encompass the invention of group II because a coating is included in Group II whereas a coating is not included in Group I. Also, separate classifications are not required for a restriction to be proper and as such it is the position of the examiner that it has been shown the distinctions between the inventions (see office action dated 9/7/2005).

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 includes the limitation "irregular shape" in line 2 of the claim. It is unclear what an irregular shape, or a regular shape, would entail.

Proper correction is requested.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reich et al. (USPN 5,962,620). Reich discloses hydrophilic and hydrophobic polyether polyurethanes (title and abstract). Reich also discloses that the polyurethanes may be used to form a shape structure or device including tubing, catheters, stents, and the like (column 4, lines 59-60 and column 15, lines 7-8). Reich also discloses that hydrophilic polymers may include drugs and enzymes, and may be coated over the polyurethanes (column 3, lines 38-43 and column 15, lines 10-12). Reich further discloses encapsulation of drugs in preferably, high viscosity hydrophilic polymers (column 27, line 60 – column 28, line 2). The disclosures of Reich anticipate the claims.

Conclusion

7. All claims have been rejected; no claims are allowed.

Correspondence

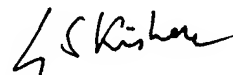
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Casey Hagopian whose telephone number is 571-272-6097. The examiner can normally be reached on M-F from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carlos Azpuru, can be reached at 571-272-0588. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Casey Hagopian
Examiner
Art Unit 1615



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Group 1600